Retired Public Employees Association, Inc.

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RPEA Testimony before the Joint Fiscal Committees of the Legislature on Workforce Development February 27, 2015

Chairmen DeFrancisco and Farrell, members of the Senate Finance and Assembly Ways and Means Committees, other interested Senate and Assembly members, fellow public servants and fellow taxpayers:

My name is Ed Farrell and I am the Executive Director of the Retired Public Employees Association (RPEA). On behalf of our President, Paul Moore, RPEA's Board of Directors and our members consisting of approximately 30,000 retired public employees and their spouses, I am testifying today with respect to certain State fiscal policies that are unfair to State retirees.

RPEA is a non-profit association organized to promote and protect the interests of retired State and local municipal employees including retired members of the Legislature, Judiciary and their staffs. In fact, our ***sole*** purpose is to advocate for public service retirees! We have a network of 19 local Chapters, most of which are located in New York State since about 80% of public employee retirees remain in New York for their retirement years. RPEA is governed by a volunteer Board of Directors, Chapter officers, and Committee members.

State retirees' pension and retiree health care benefits derive from the express and implied future agreements by government to compensate us for our work. Once we retire, we all rely on those promises for a secure and well-deserved retirement.

At the outset, I would like to thank the members of the Fiscal Committees and the Legislature, as a whole, for rejecting Executive Budget language that would have Medicare eligible retirees pay a surcharge [Income Related Monthly Adjustment Amount (IRMAA)] for their health coverage under Medicare Part B.

For the past two State budget cycles, the Governor's Budget contained language that attempted to save the State an insignificant amount of money by forcing certain State retirees to pay extra for their health insurance benefits. This would have been done indirectly through a convoluted process involving the federal Medicare program.

To minimize the cost of retiree health benefits to New York State, upon turning 65 all retirees participating in NYSHIP are required to enroll in the federal Medicare program. As a requirement for Medicare enrollment, such retirees must pay Part B premiums, but they are also required to pay the full NYSHIP premium percentage contribution to the State for their health insurance coverage. Recognizing the unfairness of this additional payment, the Legislature provided for full reimbursement of all Medicare Part B premiums.

NYSHIP retirees are pleased to save the State money by accepting Medicare as their primary health insurance provider, but the former budget proposal negated the implied intent of the Medicare premium reimbursement law (Civil Service Law, §167-a)—retirees will save the State money, and by doing so will be held harmless for additional Medicare premiums.

Perhaps because of the Legislature's willingness to protect Medicare eligible State retirees from this unequal and discriminatory treatment, the current Executive Budget does not contain the provision that would deny reimbursement for Medicare Part B IRMAAs.

On a parallel course, the State has saved additional funding for retiree drug prescription coverage by blending NYSHIP prescription drug coverage with Medicare Part D. As Medicare retirees discovered, there is a Part D IRMAA which the State has refused to reimburse. The State made an administrative decision that Part D IRMAA premiums are not reimbursable based on a statutory interpretation of Civil Service Law, §167-a. The attempt to charge Medicare retirees extra for Part D IRMAA for what amounts to an insignificant monetary savings broke faith with the spirit and intent of the original 1966 Medicare reimbursement law.

Since only Medicare eligible retirees—and not Medicare eligible active employees—are required to enroll in Medicare for the purpose of helping the State reduce the cost of the NYSHIP program, failure to reimburse all additional premiums is discriminatory and unfair. If allowed to stand, it will become a burden to more and more Medicare eligible retirees as the expressed intent of the federal government is to shift the cost of Medicare more and more to enrollees. In fact, the Medicare Part B premiums have risen over the years and the income thresholds for the IRMAA premiums for both Part B and Part D will no longer be indexed to inflation.

The State has compounded this issue and so, we are forced to come to our legislators to request that this unfair "double jeopardy" with respect to Medicare cost for prescription drugs be rescinded and the civil service law be amended to reaffirm the Medicare law's original intent. We ask that legislation be passed as part of the budget process to remedy this situation. That legislation is S.1995, introduced by Senator Golden, and A.4190, introduced by Assemblyman Abbate.

This is a fairness issue and it involves a speck of the total NYS budget. But it appears very large to public retirees who see the attacks on their retirement security from Detroit to Rhode Island.

We also urge you, as part of the 2015-16 State Budget, to pass bill language (S.3202, Golden) to affirm that it was not the Legislature's intent to allow union negotiated increases to the percentage of health care costs paid by employed New York State Health Insurance Plan (NYSHIP) members to be passed on administratively to existing retired members. In the last round of contract negotiations, administrative authority was given to the Director of the Budget and the President of the Civil Service Commission to "modify" NYSHIP statutory contribution percentage rates.

RPEA litigated this provision in the courts—unsuccessfully—to reverse the unintended administrative authority which the Executive branch of government usurped using the legislation ratifying a union contract in 2011 modify retiree contribution percentages despite the fact that the legislation did not change the premium contribution percentages stated in law.

The NYSHIP percentage contribution had been established in law since the last time such percentage was changed in 1983 as a result of union negotiations. At that time, the increased contribution rate was not applied to persons who had already retired. In this instance, the Governor administratively increased the NYSHIP percentage contribution despite the fact that the statute [Civil Service Law, §167(a)] specifying the percentage contribution requirement was not amended by the Legislature, and we believe, was not intended to apply to those of us who had already retired at the time the new employee contracts took effect.

Again, this is an equity issue. How can union negotiations affect those of us who have already retired when we are not a party to the negotiation, nor are public employee unions allowed to bargain on our behalf by law?

We ask that the language of S.3202, Golden be incorporated into the Budget language to rectify this situation. By the way, both of the aforementioned Senate bills have been referred to the Senate Finance Committee by the Civil Service & Pensions Standing Committee.

While these issues primarily concern State retirees' access to affordable health care, their resolution affects retirees of local governments, as well. There are approximately 200,000 employees of local governments who are enrolled in the NYSHIP program and what you do at the State level sets a significant precedent and policy that the local governments in NYSHIP apply to their public employees. In addition, non-participating local governments often look to State policy to establish fair and uniform practices in providing health insurance coverage to their employees.

As mentioned, about 80 percent of all New York public employee retirees continue to live and vote in this State. Our economic impact is estimated at $11.3 billion annually and we pay $1.5 billion in real property taxes which constitute 4.8 percent of all such taxes. In some areas of the State this figure is even higher. In the North Country, retirees pay 6.6 percent ; in the Capital District, 8.4 percent of the property taxes collected.

Therefore, we rely on you, our elected representatives, to provide budget oversight of the Executive branch of government to protect our health care benefits—to make sure that the promises made are promises kept.

Thank you for allowing us to testify this afternoon on behalf of all public employee retirees.